

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
APPEAL FROM ORDER NO.714 OF 2005

Miresh Kapasi

Appellant

Vs.

Shree Sangam Co-op.Hsg.Soc.Ltd.

Respondent

Mr.G.S.Hegde for appellant.

Mr.J.S.Kini for respondent.

CORAM: B.H.MARLAPALLE,J.
August 10, 2005.

ORAL ORDER:

1. Heard Mr.Hegde, the learned counsel for the appellant. By the impugned order dated 16-6-2005 the application submitted by the appellant came to be rejected. By the said application the defendant had prayed for vacating or modifying the order of injunction passed in favour of the plaintiff-Society in Notice of Motion No.2138 of 2005. The trial court has noted that though the defendant was occupying the suit flat for about 20 years, he did not remit any amount towards the society charges and other levies and he had undertaken alterations of the suit flat located in the premises of the plaintiff-Society under the pretext of carrying out repairs. The amount due to be recovered from the defendant was shown to be around Rs.3,00,000/-.

2. The appellant before this Court stated that he would deposit an amount of Rs.1,00,000/- initially and the remaining amount of Rs.2,00,000/- would be deposited in four equal instalments. Mr.Kini, the learned counsel for the plaintiff-society submitted that the defendant has undertaken major alterations to the suit flat and they could not be termed as essential repairs and these alterations are, prima facie, contrary to the rules.

3. Under the circumstances, it is for the defendant to approach the society and sort out the issue of payment as well as the repairs. The reasoning given by the court below declining to vacate the ad-interim order cannot be faulted with and, therefore, this appeal must fail at the threshold. The appeal is hereby dismissed in limine. Needless to mention that the pending suit will be decided on its merits.

(B.H.MARLAPALLE,J.)

